IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH PAUSHA 1928

WP(C).No. 33434 of 2006(E)

AGAINST THE ORDER IN EP.NO.62/2002 IN
OS.71/1984 of MUNSIFF COURT, VAIKOM

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PETITIONER:

ANNNAKUTTY THOMAS (MENTIONED AS
VARKEY ANNAKUTTY IN E.P.62/02 IN OS.71/84),
KUMARAMKERIL, VAIKOM, DIST. KOTTAYAM.

BY ADV. SRI.K.REGHU KOTTAPPURAM

RESPONDENTS:

JOSEPH MATHEW,
MATTATHUMMEL, VALAMANGALAM THEKKEMURI,
THURAVOOR THEKKU VILLAGE, CHERTHALA TALUK,
DIST. ALAPPUZHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.33434 of 2006

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Dated this the 3rd day of January, 2007.

JUDGMENT

This is an application under Article 227 of the Constitution. The matter was admitted on 18-12-2006 and an order of stay was passed on 20-12-2006. It is pointed out that Ext.P8 is a final order and therefore revisable order in as much as it negatives the plea of the writ petitioner/judgment debtor that the decree put in execution is null and void. The said order also permits the decree holder to proceed with execution. So much so, the said order is apparently revisable. Under such circumstances, this writ petition is dismissed without prejudice to the right of the petitioner to challenge Ext.P8 under Section 115 of the Code of Civil Procedure. The interim order granted on 18-12-2006 will continue to hold the field for a period of three weeks from today. It is further clarified that this judgment does not touch upon the sustainability of the revision.

Thottathil B.Radhakrishnan,

sl. Judge.